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To: <mthomas@waterboards.ca.gov>
Date: 7/21/2006 4:08:22 PM
Subject: Response to Prosecution Counsel, Reed Sato

July 21, 2006

Michael Thomas
Assistant Executive Officer
Central Coast Water Board
895 Aerovista Place, Suite 101
San Luis Obispo, CA 93401

Dear Mr. Thomas:

This is our response to Mr. Reed Sato's Brief regarding how to proceed with the proposed cease and desist orders.

We believe there has been a violation of civil rights and property rights in the way the Hearing Board and Prosecution staff have limited the CDO recipients' abilities to defend themselves. Several examples are as follows.

- Defendants were given two weeks, extended to six weeks, to understand the prosecution, submit evidence, and respond to prosecution documents that took four months to prepare. Mr. Sato was given six weeks to bring himself up to speed on the case before stating his opinion on the matter.

- Defendants are being allowed 15 minutes to defend themselves against the Prosecution in a marathon type of session. At the hearing in April we were told that we can only give evidence during our own specific time allotment but we would have all the evidence and comments from the LOCSO incorporated automatically into the record to be considered for each proposed cease and desist order. In addition, we could incorporate by reference any testimony offered by other persons named in the proposed cease and desist orders upon a showing of property-specific relevance and materiality. Mr. Sato is requesting that only our very own property specific information be submitted. Given that the actions being proposed by the prosecution could potentially put our home at risk at some future time, 15 minutes with extreme limits being requested by Mr. Sato is patently unfair.

- The Central Coast Regional Water Quality Control Board is on record discussing potential prosecutions with Mr. Roger Briggs who led the prosecution team prior to the beginning of prosecution.

- We were required to submit all evidence and argument jointly when possible, yet we are now required to obtain a notarized "power of attorney" and assume the added legal responsibilities and consequences in order to comply with the Chair's conflicting rulings.

- Mr. Briggs will be out of the country for 5-6 months, and Ms. Okun has already stated that removing him from the hearing process is not possible.

We were disgusted by Mr. Sato's comment that if the prosecution must start over, "it (prosecution team) should be free to re-present the case as the new

counsel sees fit. This could include recommendation for additional remedies or the imposition of administrative civil liability." The footnote explains the administrative civil liability is up to \$5,000 per day and civil liability is up to \$15,000 per day. We find the additional muscle applied not only unwarranted but meant to intimidate and harass us further.

We noted that the majority of the respondents had requested that the Board restart the prosecution from the beginning. In fact, we agree with several respondents who proposed that the restart of the prosecution should begin with a review of the appropriateness of issuing CDO's against possibly 5,000 individual homes and to a community of 15,000 people. We believe a re-thinking of this action is required in the interest of justice. It seems to us that the Chair should dismiss the hearing to avoid a rehearing with all the wasted time being spent by everyone. Mr. Briggs testified that it could take up to seven years to complete this CDO process. Why not spend the time to address how we can all work together to solve our waste water problem.

With the special legislation that Assemblyman Sam Blakeslee is sponsoring in the state legislature to have the County of San Luis Obispo take over the sewer project, we ask that no further action be taken on these CDO's while this is in the works.

Mr. Sato believes that if he has to re-present his case, the LOCSD should not be allowed to restart their case. His argument that "the individual respondents' rights to due process do not entitle the homeowners to have the LOCSD redo its case for their benefit" ignores the Chair's Consolidated Proceedings for All Cease and Desist Orders April 28, 2006 Hearing which states: "Note: All of the evidence and comments presented in items 2 through 5 will be incorporated automatically into the record that will be considered for each individual Cease and Desist action." Item 4 was "Presentation of Evidence by Los Osos CSD (Estimated time 2 hours)." If all of the evidence and comments presented by the LOCSD will be incorporated automatically into the record that will be considered for each individual Cease and Desist Order action, then to allow the prosecution to redo their case without allowing the same option to the LOCSD would be an infringement on the due process rights of all defendants in this case.

We disagree with Mr. Sato's comment that "private interest is low for the individual respondents---they are merely being ordered to undertake minimal septic tank repairs that they should be doing anyway, and to cease violating the basin prohibition and the law. This action does not impose penalties." On the contrary, there are stiff penalties if we are unable to connect to a sewer in January 2010, one being having to vacate our home. How is it possible for us as individuals to have any control over our future ability to connect to a sewer in 2010?

Sincerely,

William and Maryella Dannenbring
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